



United States Department of the Interior

OFFICE OF THE SOLICITOR

Pacific Southwest Region

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Sacramento, California 95825-1890

IN REPLY
REFER TO:

November 17, 2000

Harry M. Schueller, Chief
Division of Water Rights
State Water Resources Control Board
P.O. Box 2000
Sacramento, CA 95812-0200

Subject: Improving the Water Rights Process and Procedures

Dear Mr. Schueller,

On behalf of the U.S. Bureau of Reclamation, I submit the following comments and recommendations regarding actions that could be taken to improve the State Water Resources Control Board's water right process. Our comments and suggestions are set forth below.

- 1. Element of the process:** Application Processing
Issue: The inclusion of standard permit terms in State Water Resources Control Board ("SWRCB" or "the Board") Notices of Application to Appropriate Water.

Ordinarily, the Board indicates in its Notices of Application to Appropriate Water that it will determine whether terms and conditions should be included in a permit to protect the environment and other downstream water users. Although it may be implied, the notice does not indicate specifically which standard permit terms will be included in any permit issued pursuant to the application.

An example is the inclusion of Standard Permit Term 91. It has been specified in SWRCB Decision 1594, that Term 91 will be automatically included in new appropriations for water from the Sacramento/San Joaquin Delta watershed, but this has not always automatically occurred. Under the current noticing process (which does not identify specific permit terms that will be included any permit issued), a potential protestant is obligated to write a letter to the SWRCB advising that there is an

understanding that any standard board permit term applicable to the application will be included in any permit issued, and if not, then the subject letter will serve as our notice of a formal protest. Upon receipt of a protest, the SWRCB staff issues a letter giving the applicant 15 days in which to respond to the protestant and if resolution cannot be met, then the matter may go to hearing. The response from the SWRCB staff is a procedural layer that can be eliminated, if the notice explicitly and specifically described the applicable standard permit terms.

Suggestion: If Notices of Application to Appropriate Water were to include specifically which standard permit terms would automatically be included in any permit issued, based on the stream system recited in the notice, this would eliminate the need for additional correspondence from potential protestants, or the need to formally protest.

2. Element of the process: Application Processing

Issue: Using the State Water Resources Control Board web site forms. Are they user-friendly?

Applicants and petitioners to the SWRCB often must draft an application form or petition form pursuant to the Water Code. The SWRCB web site provides forms such as the form entitled "Application to Appropriate Water By Permit." In general, the Board's web site is user-friendly. Reclamation's Water Rights staff makes use of the web site on a daily basis. Locating the necessary forms on the web site is quick and easy. However, the forms are formatted as ".pdf" files. It has been Reclamation staff's experience that the use of a ".pdf" file has limitations. For instance, a customer is able to use the form only while on the web site. Furthermore, a user is not able to save the completed form to another software application. Consequently, when an applicant or petitioner has the need to draft or re-draft numerous forms, they must completely recreate the form for each separate action.

Suggestion: Reclamation staff has contacted the SWRCB Water Rights staff regarding this issue, and it appears that this particular issue may be resolved. Otherwise, it is suggested that any forms provided on the SWRCB's web site be made available in a usable format for external customers.

3. Element of the process: Administrative Actions

Issue: A more efficient water right procedure needs to be adopted to enable the Division of Water Rights to administratively approve certain water right changes that are necessitated to facilitate land use changes or service area boundary modifications that are undertaken and approved at the local planning and decision making level by the appropriate local authority.

As approved modifications to contracting districts service area boundaries occur through

local approval processes, changes to the project's intended water right place of use should also be allowed to occur to coincide with the approved legal service area boundaries of the contracting district. A procedure for administrative approval can be developed and implemented, to avoid the need for a full-blown, formal hearing process involving large water projects such as the Central Valley Project, to approve a change in the place of use to accommodate service area boundary modifications each and every time a contracting district modifies its legally defined service area boundary. Reclamation staff believes that the Board's decision to approve petitions for a change in place of use can be made without a formal hearing.

Suggestion: An administrative approval process should be established, so that the Division of Water Rights can ratify or adopt water right changes to accommodate approved lands use or service area boundary modifications, when such actions have had adequate environmental review at the local level, have been found to have no adverse environmental impacts, and do not result in any change in the amount, timing, or manner in which water is appropriated or applied.

We appreciate your inviting, and providing a forum to hear, our comments and suggestions. Thank you.

Sincerely,

David Nawi
Regional Solicitor

A handwritten signature in black ink, appearing to read 'Edmund Gee', written over the printed name.

By: Edmund Gee
Assistant Regional Solicitor